

REMARKS

In the Office Action issued on November 30, 2007, the Examiner required a replacement oath/declaration for Michael Garrison, rejected Claim 14 under 35 U.S.C. §101, and rejected Claims 1 through 3, 10, 11, 13, 14 and 16 under 35 U.S.C. §102(b). The Applicants have fully considered the Office Action and cited reference and submit this Reply and Amendment in response to the Examiner's action. Reconsideration of the application for patent is requested.

Defective Oath or Declaration

The Examiner asserted that the supplemental oath or declaration filed on September 27, 2007, for Michael Garrison is defective because it does not set forth the full name of each inventor. The Applicants herein provide a replacement supplemental declaration signed by Mr. Garrison. This supplemental declaration complies with 37 C.F.R. §1.67(a)(2).

The Applicants respectfully request that the Examiner place the replacement supplemental declaration in the record and remove the objection to the declaration as being defective.

Rejections under 35 U.S.C. §101

The Examiner rejected Claim 14 under 35 U.S.C. §101 as being directed to non-statutory subject matter. Specifically, the Examiner asserts that "claim 14 appears to be claiming the patient in combination with the device."

To more particularly point out and distinctly claim that which the inventors regard as their invention, the Applicants have herein amended Claim 14 to indicate that the implantable medical device is "adapted to be implanted" in a body vessel. This amendment is fully supported by the application as filed; no new matter has been introduced. Exemplary support is found in paragraph 0053. Further, the amendment is made in accordance with the Examiner's suggestion in the November 30, 2007, Office action (see Page 2, bottom).

The Applicants respectfully assert that this amendment fully overcomes the rejection of Claim 14 under 35 U.S.C. §101. Removal of this rejection is requested.

Rejections under 35 U.S.C. §102

The Examiner rejected Claims 1 through 3, 10, 11, 13, 14, and 16 under 35 U.S.C. §102(b) as being anticipated by Pavcnik (WO 99/62431).

The Applicants have herein amended independent Claim 1, from which all other rejected claims depend, to require that the second and third portions comprise non-overlapping portions of the at least one of the struts. This amendment is fully supported by the application as filed; no new matter has been introduced. Exemplary support is found in Figures 11, 23, 24, 25 and 26 and the accompanying discussion in the specification.

Pavcnik does not teach or suggest a relatively narrow first strut portion disposed between relatively wider second and third strut portions *that comprise non-overlapping portions of a strut*. While Pavcnik clearly does show second and third portions that comprise overlapping portions of the wire member, it is completely devoid of any teaching that the relatively wider portions comprise non-overlapping portions of a strut.

Accordingly, Pavcnik does not anticipate Claim 1 as amended herein because it does not teach each and every limitation of the claim. Furthermore, the reference does not anticipate any of Claims 2, 3, 10, 11, 13, 14, and 16 because each of these claims ultimately depend from Claim 1 and, as a result, include all limitations of Claim 1.

The Applicants respectfully assert that all claim rejections based on Pavcnik are overcome by the amendments made herein and request their withdrawal.

CONCLUSION

The Applicants have fully responded to the rejections listed by the Examiner in the November 30, 2007, Office Action. A Notice of Allowability relating to all claims currently under consideration is appropriate and respectfully requested by the Applicants.

Should the Examiner have any questions regarding this Reply and Amendment, or the remarks contained herein, the undersigned attorney would welcome the opportunity to discuss such matters with the Examiner.

Respectfully submitted,

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